

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.258 OF 2003

Mohammed Ayyaz A. Maniar .. Applicants
(through legal heirs of deceased
Seema Ayyaz Maniar & Ors.

versus

Mrs. Suraiya Shafique Parkar .. Respondent

...

Mr. R.A. Shaikh for appellants
Mr. V.R. Tripathi for respondent.

CORAM : D.G. KARNIK, J
DATED :26th September 2006.

P.C:-

1. Heard the counsel for the parties.
2. Respondent is the licensor and the petitioner is the licensee of the suit premises. Respondent filed an application under Section 13 A-2 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (for short 'the Bombay Rent Act) Act against the petitioner for eviction before Mr. S.S. Barde who was appointed as the competent authority for the Konkan Division. After hearing the parties and considering the evidence adduced before it, by a judgement and order dated 6th September, 2002 the

competent authority passed an order of eviction of the petitioner from the suit premises. That order is impugned in this civil revision application.

3. By an order dated 3rd March, 2003 (Coram: R.M.S. Khandeparkar J.) this Court issued the rule and admitted the revision application for final hearing. Thereafter the respondent moved this Court by filing an application bearing Civil Application No.110 of 2003 for recalling issuance of the rule and dismissing the civil revision application. Reports had appeared in the newspapers that Mr Barde had ceased to be competent authority in respect of Konkan Division long ago. Parties therefore brought that to the notice of this Court in Civil Application No.110 of 2003. After considering the government letters which were produced before the Court, this Court noted that Mr Barde was appointed as competent authority by notification dated 23/7/2001 for a specific period from 23/7/2001 upto 22/7/2002 only. The Court accordingly observed that Mr Barde had ceased to be the competent authority with effect from 23/7/2002. In view thereof the Court was of the view that the order of issuance of the rule passed by it on 3rd March, 2003 did not warrant any modification and the Court accordingly dismissed Civil

Application No.110 of 2003.

4. The finding recorded by this Court in Civil Application No.110 of 2003 that Mr Barde was appointed as competent authority by notification dated 23/7/2001 for a limited period from 23/7/2001 to 22/7/2002 and had ceased to be the competent authority with effect from 23rd July, 2002 has become final and has not been challenged by the respondent. If so, Mr Barde who passed the impugned order on 6/9/2002 was not the competent authority when he passed the impugned order. He therefore purportedly exercised the jurisdiction which was not vested in him as he had ceased to be the competent authority. The impugned order is therefore without jurisdiction and needs to be set aside.

5. In view of this the revision application is allowed and impugned order is set aside. In the facts and circumstances of the case there shall be no order as to the costs.

(D.G. KARNIK, J.)